

# NATIONAL INDIAN BROTHERHOOD

18T FLOOR, BANKAL BUILDING, 102 BANK STREET, OTTAWA, ONTARIO K1P 5N4 (613) 238-0673  
TELEX 053-3292

## INDIAN RIGHTS PROCESSES (CANADIAN INDIAN RIGHTS COMMISSION)

Date: 12 May 1977 - 2:30 p.m.

Place: National Indian Brotherhood Board Room

Present: Noel V. Starblanket, President  
Dennis Nicholas, Vice-President  
Roberta Jamieson, Special Assistant to the President  
Ron Albert, Executive Director  
Dawn Tessman, Executive Assistant  
Andrew Delisle, Confederation of Indians of Quebec  
David Ahenakew, Federation of Saskatchewan Indians  
Sol Sanderson, Federation of Saskatchewan Indians  
Brian Pratt - Commissioner, Prairie Region  
Canadian Indian Rights Commission  
Justice Patrick Hartt - Commissioner, Ontario Region  
Canadian Indian Rights Commission

Noel Starblanket informed the Commissioners of the Executive Council Resolution passed in Saskatoon on May 5 - 6, 1977 (attached Appendix A) which appointed David Ahenakew (Saskatchewan), John Peter Kelly (Ontario) and a member of the National Indian Brotherhood to sit on the Joint Sub-Committee of the National Indian Brotherhood/Cabinet Committee for Indian Rights Processes. Noel said he would be the member from the National Indian Brotherhood.

Now that the mechanism is in place by virtue of the Order-in-Council (attached Appendix B), we must define the priorities of the Canadian Indian Rights Commission. He said this forum will define Indians' rights, land entitlement and surrenders. The Maritimes, Quebec, Northwest Territories, Yukon and British Columbia will be dealing with their own individual claims.

Brian Pratt said he would like clarification on what the Joint Committee expects of the Commissioners. He suggested that a record should be kept of all decisions at various meetings, which until recently had been done by the Privy Council Office. The function of the Privy Council Office was to arrange meetings, record minutes and distribute them to the parties concerned for comments or modifications.

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David Ahenakew suggested that because of the importance of this function, it should be carried out by the Commission itself, if the manpower is available. He said the follow up work could best be done by the Commission. There should be a clear definition of responsibility.

Brian Pratt suggested that the records should be kept in a separate place, i.e. a resource centre.

Brian Pratt asked if the Commission was to provide services such as participation in Joint Working Group Meetings, and suggested this could be done by the Commission in the person of an Executive Director, and not necessarily the Commissioners themselves.

Noel Starblanket said the responsibility of the Commission was to provide Chairmanship and could be decided between the Commissioners.

Justice Hartt said his time will be very limited initially until the whole issue with Reed Paper is resolved. The position that was advocated by Treaty 9 has been accepted by the government. It now includes north of the 50° parallel in Ontario which is a much wider proposal than in the beginning. Mr. Hartt agreed that there will be a conflict of responsibility and proposed that he will have to back out of one or both of these commitments.

Sol Sanderson said once the Commission is functioning, there is no way of broadening their Terms of Reference.

Brian Pratt said the Commission was exceptional in this regard in that the Order-in-Council states "where directed by the Joint Committee."

Anthony Francis asked about the issue of jurisdiction - crown land/Indian land.

Noel Starblanket said this would be discussed at the next Joint National Indian Brotherhood/Cabinet Committee Meeting by means of the Indian Policy Development Secretariat.

Sol Sanderson said in order for the Commission to become sensitive to the Indian concept of rights they should participate at all levels of involvement with Indians.

Brian Pratt replied that the Executive Director could attend all meetings and the Commissioners could attend some meetings. He said each provincial association should make sure it gives its issues to the Joint Working Group.



Andrew Delisle said the Canadian Indian Rights Commission should not be expected to provide the secretarial function for the Joint Committee, Joint Sub-Committee and Working Groups. He said the National Indian Brotherhood and government was capable of setting up the funding. He feels the Commission should facilitate and assist all Joint Committee processes. He feels the Commission should develop a research resource center from the Barber Commission. Andrew agreed that the Commission should confine its efforts to Ontario and the Prairies in facilitating the development of an inventory of claims. He felt that any inquiries from the media should be handled by the Joint Cabinet Committee.

Brian Pratt said any information from the Joint Committee should be confidential and when released it was done through a joint announcement. He said he would refer any inquiries from the media to the National Indian Brotherhood.

Noel Starblanket said the National Indian Brotherhood had been pressuring Minister Allmand re the Order-in-Council. He said he had heard about the appointment of the Commissioners by reading it in the newspaper.

Brian Pratt said an official announcement should be made in whatever way the National Indian Brotherhood sees fit.

David Ahenakew said the Joint Working Groups require a staff to participate at the meetings in order to sensitize the Commission to the intent of the Indian people. He suggested the Executive Director could act as Chairman for all Joint Working Groups. He suggested that under the direction of the Joint Cabinet Committee, the Commission could facilitate and assist the Joint Committee processes. David agreed that there should be a central location for all records. He said the Commission should concentrate its efforts to Ontario and the Prairies, but until the government withdraws its statement on 'extinguishment' (Buchanan) the situation will remain the same. He said an announcement should be made, and it should be made clear that all direction comes from the Joint Cabinet Committee.

Anthony Francis said we had tried to get the government to recognize certain rights. He said we are trying to establish a process that would by-pass unilateral decisions that are made in other departments.

Brian Pratt said it had been suggested that a Panel of Inquirers be established so that the Commission might bring forward a point of view.

Justice Hartt said he felt the Commission itself should not be in a decision making position.



Anthony Francis suggested the Commission could make recommendations to Cabinet.

Sol Sanderson said he saw the Commission as being able to cut through the red tape. He said the presence of Indian government is not felt in a place such as Ottawa, as it is recognized in a place like Saskatchewan.

Brian Pratt said he saw the Commission as a place to get third party opinion to questions that need to be answered. The ultimate place to get answers is at the Joint Cabinet Committee.

David Ahenakew said one of the key roles of the Commission was to keep these issues in the political arena.

Andrew Delisle sees the Commission's function as gathering facts and presenting these facts to both sides.

Sol Sanderson stated the Commissioners must be objective about the role of the Commission.

Justice Hartt said he is inclined to think that now, after hearing the comments, concerns and reservations voiced today, he has no choice but to withdraw, and carry on his work in Ontario. He offered his assistance at any time. He said he would discuss this matter with the Chiefs of Ontario.

Brian Pratt said he thought by definition the Canadian Indian Rights Commission is supposed to be impartial in assisting both government and Indians in solving the problems. It was created by both jointly and therefore establishes its character. Brian appreciates that the situation in Ontario was not a joint effort.

David Ahenakew said certain principles should be discussed with Cabinet before the Commissioners can begin working.

Meeting adjourned 5:00 p.m.

#### ATTACHMENTS

- APPENDIX A - Executive Council Resolution, May 5 - 6, 1977
- APPENDIX B - Order-in-Council for establishment of Commission and two Commissioners
- APPENDIX C - National Indian Brotherhood/Cabinet Committee Chart
- APPENDIX D - Joint Sub-Committee Meeting, 7 April 1976
- APPENDIX E - Press Release, 14 April 1976
- APPENDIX F - Letter from Honourable Marc Lalonde, 9 February 1976
- APPENDIX G - Report of Joint National Indian Brotherhood/Cabinet Committee Meeting (Amended by Cabinet) 12 December 1975
- APPENDIX H - List of questions re Canadian Indian Rights Commission
- APPENDIX I - Order-in-Council for Special Enquirer
- APPENDIX J - Letter from Judd Buchanan to Premier Lougheed, 30 March 1976  
Letter from Clive Linklater to Judd Buchanan, 11 June 1976  
Letter from Judd Buchanan to Clive Linklater, 11 August 1976



EXECUTIVE COUNCIL RESOLUTION

Executive Council Meeting held on May 5 - 6, 1976  
in Saskatoon, Saskatchewan:

RESOLUTION #9 (Fred Gladstone/Chris Beaulieu)

THAT David Ahenakew, John Kelly and an Executive Member sit on the Joint Sub-Committee of the National Indian Brotherhood/Cabinet Sub-Committee for Indian Rights Processes. (Canadian Indian Rights Commission).

Carried.



P.C. 1977-702



Certified to be a true copy of a Minute of a Meeting of the Committee  
of the Privy Council, approved by His Excellency the Governor  
General on the 17 March, 1977

PRIVY COUNCIL

WHEREAS the Committee of the Privy Council have  
had before them a report representing:

That a Joint Committee consisting of members of  
the Privy Council and representatives of the  
National Indian Brotherhood has been established  
to provide to Ministers of the Crown and Indian  
leaders an opportunity to discuss problems of  
concern to the Government of Canada and the  
status Indians of Canada; and

That a Joint Sub-Committee on Indian Rights and  
Claims, consisting of three members of the Privy  
Council and three representatives of the National  
Indian Brotherhood, has been established since  
the Government of Canada and the status Indians  
of Canada are concerned that agreement be reached  
on basic principles and processes for settling  
grievances about Indian rights and claims.

THEREFORE, the Committee of the Privy Council, on  
the recommendation of the Prime Minister, advise that:

- (1) The Honourable Mr. Justice E. Patrick Hartt,  
a judge of the Supreme Court of Ontario, of  
Toronto, Ontario, and

Mr. Brian George Pratt, Executive Director,  
Indian Claims Commission, of Saskatoon,  
Saskatchewan

be appointed to a Commission to be known as the  
Canadian Indian Rights Commission, to exercise  
the following duties:

- (a) to facilitate the development of an  
inventory and classification of existing  
claims of status Indians and to report  
thereon to the Joint Committee; and

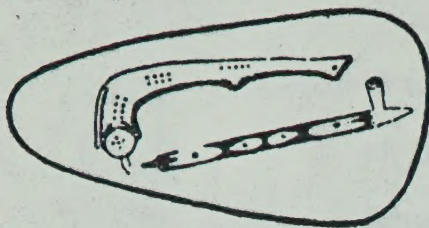


- 2 -

- (b) where directed by the Joint Committee, to assist in the resolution of issues of concern to the Government of Canada and the status Indians of Canada.
- (2) The appointment of Mr. Justice Hartt to the Commission be for a period of five years.
- (3) The appointment of Mr. Brian George Pratt to the Commission be for a period of four years.
- (4) The Commission be authorized to secure the assistance of such officers and employees of the Government of Canada as may be required for its activities.
- (5) The Commission be authorized subject to the direction of the Joint Committee to engage the services of such counsel, staff, clerks and advisers as may be required at rates of remuneration and reimbursement to be approved by the Treasury Board.
- (6) The appointment of the Commissioner appointed by Order in Council P.C. 1969-2405 of 19th December, 1969 be terminated as of the day of this Order.
- (7) In the case of any person who was engaged in the provision of services to the Commissioner appointed pursuant to Order in Council P.C. 1969-2405 of 19th December, 1969 on the day immediately preceding the day of this Order by virtue of a contract of service between that person and the said Commissioner, the Commission appointed pursuant to this Order shall, if so notified in writing by that person of his intention to fulfil his duties on behalf of the Commission appointed pursuant to this Order, assume the obligations and provide the benefits of the contract as if that contract of service had been entered into by the Commission appointed pursuant to this Order.

*P. J. Patfield*



**NATIONAL INDIAN BROTHERHOOD**

1ST FLOOR, BANKAL BUILDING, 102 BANK STREET, OTTAWA, ONTARIO K1P 5N4 (613) 236-0873  
TELEX 053-3202

NATIONAL INDIAN BROTHERHOOD

Indian Policy Development  
Secretariat  
(Executive Council Members)

JOINT COMMITTEE

Joint Cabinet  
Committee

Joint Sub-Committee

Indian Policy Development  
Committee (Exec. Council Members)

Joint Working Group

National Ad hoc Policy Committees

POLITICIANS

TECHNICIANS



April 26, 1976

JOINT SUB-COMMITTEE ON INDIAN  
RIGHTS AND CLAIMS

MEETING OF APRIL 7, 1976

SUMMARY OF DISCUSSIONS

The Chairman opened the meeting by outlining the proposed agenda which was approved as presented.

Inquiries Act Powers

The Chairman then called on Mr. Basford to speak to the position of the National Indian Brotherhood (NIB) on the question of powers under the Inquiries Act. Mr. Basford presented an order-in-council in which specific powers would be granted to a special inquirer for the purpose of gathering testimony from elders. He felt that this provision should respond to the concerns of the NIB about the termination of the present Indian Claims Commission (ICC). Mr. Basford did, however, point out that the actual admissibility in court of such evidence would be decided by the judge in any subsequent case.

Mr. Cardinal indicated that the order-in-council appeared to meet the requirements of the NIB but felt that the draft should be reviewed in greater detail by the Joint Working Group on Indian Rights Processes (JWG) before being given final approval. He reminded the Joint Sub-Committee (JSC) of the two main NIB concerns:

1. to ensure that powers would continue to be available to collect evidence from elders; and
2. to provide for access to records of relevance to Indian claims.



It was agreed that the order-in-council (draft attached as Appendix A) should be reviewed by the JWG. Mr. Basford noted that any major change to the text would have to be re-examined before being referred back to the JSC.

#### Terms of Reference - Canadian Indian Rights Commission

The JSC then discussed the order-in-council to establish the Canadian Indian Rights Commission (CIRC). Mr. Cardinal raised the matter of the non-status Indians who were currently involved in the comprehensive land claims question and the effect on that group of the termination of the ICC. Since the new CIRC would be accountable to the Joint Cabinet/National Indian Brotherhood Committee (JC), a group established to represent the government and the status Indians through the NIB, the CIRC would not deal with non-status Indian matters. The Commission would not have a greater scope of activity than that of the JC. It was added that government negotiations were already underway with non-status Indians which should alleviate this concern.

The Chairman then asked Mr. Barber to report on the procedure involved in the termination of the current ICC and the requirements for concluding its work.

Mr. Barber noted that there appeared to be two main questions. The first dealt with the concern of the NIB regarding the continuation of powers currently held by the ICC. These would be provided for through the CIRC and the special inquirer. The second dealt with his own procedural concerns in wrapping up the work of the ICC and in ensuring a smooth transition to the new Commission. He had not yet had the opportunity to discuss with the Prime Minister the nature and extent of any report that would be submitted on termination of the ICC. Other matters also had to be resolved, such as the disposition of files and the transfer and management of the Research Resource Centre. In response to a question by the Chairman, he added that the powers he currently held under the Inquiries Act would not be necessary while he was concluding his work.



It was agreed that the ICC be terminated and that Mr. Barber should consult with the Privy Council Office and the Department of Justice to resolve the procedural matters involved in the termination of the Commission.

#### Nomination of Commissioners

The Chairman noted that he was to meet with Mr. Manuel, as the Nominating Committee (NC), to discuss candidates proposed by both the government and the NIB as commissioners on the CIRCC. The names of candidates would then be submitted to the JSC for consideration before being forwarded to Cabinet for approval.

It was agreed that the NC would meet before the end of May to consider recommendations.

#### Cost Estimates

The Chairman opened discussion on the proposed cost estimates by noting that ministers had not had the time to study the estimates and that it had not yet been finally determined which department would be responsible for the provision of these funds. He also reminded the JSC that, in view of the government's current anti-inflation program, any budget would have to be examined very critically.

Mr. Cardinal expressed concern that the review of these cost estimates should not interfere with separate discussions now going on with the Department of Indian Affairs and Northern Development regarding funding of the Rights and Treaties Research Program. The Chairman pointed out that, for example, the funding of the Research Resource Centre would have to be reviewed very carefully to ensure that there would be no duplication.

Mr. Pratt noted that the reference to "legal fees" in the cost estimates referred solely to expenses that would be incurred by lawyers, not on staff with the various associations, attending meetings; this would not involve legal research fees.



It was agreed that the cost estimates should be reviewed in detail by the JWG before further discussion by the JSC.

#### Status of the Joint Working Group

The Chairman then raised the question of the status of the JWG. It was agreed that it should be formally recognized as the JSC's working group and, consequently, be known as the Joint Working Group on Indian Rights and Claims.

#### Public Announcement

A proposed press release formally announcing the approval by Cabinet of the Joint Committee process was then reviewed by the JSC. It was agreed to omit reference to specific ministers involved in the Committee and to the numbers of commissioners of the CIRC. Other minor wording changes were also made (see draft attached as Appendix B).

Arrangements would be made for a time convenient to the Chairman and to Mr. Manuel during the week of April 12 when the announcement could be made. While arrangements were being made, it would also be decided whether there would be a formal press conference or whether Messrs. Lalonde and Manuel would simply be available to the press to answer questions.

#### Conclusion

During the meeting, it was agreed that:

1. the JWG on Indian Rights and Claims should review the draft orders-in-council establishing the CIRC and providing powers to a special inquirer under the Inquiries Act and report back to the JSC;



2. the ICC would be terminated and the Commissioner of the ICC should consult with the Privy Council Office and the Department of Justice regarding the resolution of procedural matters dealing with that termination;
3. the NC should meet by the end of May, 1976, to review recommendations for appointments to the CIRC and forward proposals to the JSC before they are referred to Cabinet for approval;
4. the proposed cost estimates should be reviewed by the JWG before further discussion by the JSC;
5. the JWG would be formally recognized as the JSC's working group and would be known as the Joint Working Group on Indian Rights and Claims; and
6. a press release would be issued jointly by the Chairman of the JC and the President of the NIB announcing the approval by Cabinet of the Joint Committee process.

The meeting adjourned at 6:35 p.m.

Jean Trudeau  
Secretary to the Joint Cabinet/  
National Indian Brotherhood  
Committee



JOINT CABINET/  
NATIONAL INDIAN BROTHERHOOD  
COMMITTEE

71-  
APPENDIX E

PRESS RELEASE

Issued Jointly by Mr. George MANUEL, President of the National Indian Brotherhood and the Honourable Marc LALONDE, President of the Joint Committee

The Honourable Marc Lalonde, Minister of National Health and Welfare and Chairman of the Joint Cabinet/National Indian Brotherhood Committee, and Mr. George Manuel, President of the National Indian Brotherhood, announced today the decision by Cabinet to establish a process designed to yield agreements between the government and the representatives of the Indian people on major policy issues. It was agreed by Cabinet that a committee be established composed of the NIB Executive Council and a group of ministers whose departments are responsible for programs that affect status Indian people. It is expected that this Joint Committee will meet at least twice a year.



At its meeting on December 12, 1975, the Joint Committee agreed on new processes for dealing with Indian claims. These include a joint sub-committee of three ministers and three top-level Indian leaders, who will meet as may be necessary to resolve claims policy issues which have a high priority recognized by both the government and the Indian people. In addition, the Canadian Indian Rights Commission will be created to facilitate claims and negotiation processes, and to provide other assistance and support under the direction of the Joint Committee. An announcement will be made shortly about the appointment of commissioners.

A joint working group, composed of NIB and government officials, has been formed to discuss and recommend revisions to the Indian Act. To implement this work, a consultation process, under the auspices of the NIB, has been agreed so that all Indian bands can express their views about proposed revisions.

It is intended that other major policy issues arising in the relationship between the government and the Indian people will be dealt with through the same Cabinet/National Indian Brotherhood joint process. The fundamental aim and approach is to



develop Indian policy in a way that will be mutually satisfactory to all concerned and affected.

**Contact:**

Clive Linklater: 236-0673

Mary McLaughlin: 996-5461 or

Jean Trudeau: 593-4817





APPENDIX F

MINISTER OF NATIONAL HEALTH AND WELFARE  
AND  
RESPONSIBLE FOR THE STATUS OF WOMEN

MINISTRE DE LA  
SANTÉ NATIONALE ET DU BIEN-ÊTRE SOCIAL  
ET  
MINISTRE CHARGÉ DE LA SITUATION DE LA FEMME

Ottawa K1A 0A3

CONFIDENTIAL

February 9, 1976

Mr. George Manuel  
President  
National Indian Brotherhood

Dear Mr. Manuel:

In my capacity as Acting Chairman of the Joint Cabinet/National Indian Brotherhood Committee, I am glad to inform you that Cabinet has now reviewed the Joint Committee report dated December 12, 1975.

Cabinet has received favourably most of the recommendations put forward with some minor modifications which you will find underlined in the amended report attached hereto. Since these modifications were not really substantial Cabinet has decided not to refer them back to the Joint Committee for further study.

You will note that Cabinet has approved the recommendation concerning the establishment of a Secretariat. However, the location of this Secretariat has not yet been determined.

Should you need any clarification, I would invite you to contact me and I will be glad to provide you with the explanation you feel is needed



CONFIDENTIAL

May I take this opportunity to thank you sincerely for the good cooperation of all the executive of the National Indian Brotherhood in this very important task that both the Government and the Brotherhood have undertaken.

Yours truly,

*Marc Lalonde*

Marc Lalonde  
Acting Chairman  
Cabinet/National  
Indian Brotherhood  
Committee



REPORT OF THE JOINT  
CABINET/NATIONAL INDIAN BROTHERHOOD COMMITTEE:

December 12, 1975

AS AMENDED BY CABINET

I- INDIAN RIGHTS PROCESSES

a) Joint Committee

- 1) a Joint Cabinet/National Indian Brotherhood (NIB) Committee be established to provide ministers and Indian leaders with an opportunity to discuss problems and issues of concern to both; the scope of this Joint Committee to be broad and focussed essentially on questions of principle and policy;
- 2) the Joint Committee be composed of the NIB Executive Council and of the following ministers: the President of the Treasury Board, the Minister of Justice, the Minister of Manpower and Immigration, the Solicitor General, the Secretary of State, the Minister of National Health and Welfare, the Minister of State for Urban Affairs, and the Minister of Indian Affairs and Northern Development. Other ministers could be invited to attend meetings of the Joint Committee when items on the agenda relate to the interest of their department;
- 3) the Joint Committee be chaired by a Minister appointed by the Prime Minister after consultation with the NIB;
- 4) Joint Committee members avoid sending representatives to meetings when they are unable to attend;



- 5) public statements concerning the Joint Committee meetings and activities be made only with the agreement of the Joint Committee;
- 6) recommendations from Joint Committee be referred to Cabinet;

b) Joint Working Groups

- 1) joint working groups be established by the Chairman of the Joint Committee and the President of the NIB when needed for the purpose of clarifying issues before they are submitted to the Joint Committee for discussion;
- 2) the agenda for meetings of the Joint Committee be defined at the preceeding meeting so that joint working groups can work effectively;
- 3) joint working groups report to the Joint Committee;

c) Joint Sub-Committee

- 1) the Joint Committee establish a joint sub-committee on Indian rights and claims (Joint Sub-Committee);
- 2) the Joint Sub-Committee address the problem of principles of claims and of settlement processes and any other items that the Joint Committee might wish to refer to it and on which agreement could be reached at the Joint Committee level;
- 3) the Joint Sub-Committee be composed of three NIB Executive Council members and three Cabinet ministers;



- 4) no more than one formal sub-committee be established;

d) Canadian Indian Rights Commission

- 1) a Canadian Indian Rights Commission (Commission) be established under the direction of the Joint Committee for the purpose of facilitating the resolution of issues raised in the Joint Committee process;
- 2) the Joint Committee direct the Commission to work closely with the Joint Sub-Committee on the claims issue;
- 3) a commissioner be appointed in each of the three following regions: the Prairies, Ontario, Quebec and the Maritimes;
- 4) the first group of commissioners be appointed for three, four, and five years; subsequent appointments or re-appointments to be for five years;
- 5) a coordinating commissioner be appointed after his role has been determined by the Joint Sub-Committee;
- 6) the Commission come under the Privy Council Office for administration purposes;

e) Joint Nominating Committee

the Chairman of the Joint Committee and the President of the NIB propose the names of three commissioners to the Joint Committee which, in turn, will recommend their approval to Cabinet;



f) Panel of Inquirers

- 1) a panel of inquirers be established consisting of a list of names of well-known persons who could be asked to conduct an inquiry at the request of the Joint Committee;
- 2) the powers of the Inquirer be further studied by the Joint Sub-Committee in consultation with the present Indian Rights Commissioner, Dr. L. Barber before being recommended to Cabinet;

g) Secretariat

- 1) a secretarial be established;
- 2) the location of the Secretariat to be determined at a later date;
- 3) the Secretariat include one person of Indian ancestry;

h) Federal-Provincial Relations

after the report has been approved by Cabinet, the Minister of Indian Affairs and Northern Development should inform the provinces in writing of the agreement reached by the federal government and the NIB on the Indian Rights Processes;

i) Public Relations Considerations

a joint press release be issued after Cabinet approval of the Indian Rights Processes;

j) Funding

a joint working group on funding be established to give consideration to financial matters beginning with fundin



questions currently under consideration, namely;

- 1) core funding of Indian associations;
- 2) funding of claims activity; and
- 3) additional funding resulting from the Joint Cabinet/  
NIB Committee process.

## II INDIAN ACT REVISION

### a) Indian Act Principles

the Joint Working Group on the Indian Act pursue its study of the proposed principles for amending the Indian Act and submit a report on this issue as soon as possible;

### b) Consultation Process

- 1) the proposed process for amending the Indian Act outlined in the Annex I be approved;
- 2) the government be free to receive views from other groups interested in the revision of the Indian Act;
- 3) the interim report on education be referred to the Joint Working Group on the Indian Act for study and recommendation to the Joint Committee;

### c) Indian Act Funding

- 1) the government and the NIB allocate resources and arrange their priorities so as to ensure that the process is carried out effectively and expeditiously;



- 2) periodic progress reports on the consultation process be made by the NIB for discussion and consideration by the Joint Working Group prior to each scheduled
- 3) the additional funds needed to activate this process be studied by the Joint Working Group on Funding.

AGNEDA FOR THE NEXT MEETING OF THE JOINT COMMITTEE

the agenda for the next meeting of the Joint Committee to be held in the Spring of 1976, be determined by the President of the Joint Committee and the President of the NIB and include among other subject the following:

- a) progress report by the Joint Working Group on the Indian Act on the revised principles and on the proposed amendments to the education section;
- b) report of the Joint Working Group on funding; and
- c) progress report on the implementation of the Indian Rights Processes approved by Cabinet.

February 5, 1976

PROPOSED PROCESS FOR AMENDING THE INDIAN ACT

- 1) Propositions for amendments will be presented to the Joint Working Group by the National Indian Brotherhood and government representatives generally according to the phased plan proposed by the National Indian Brotherhood (see Appendix 1).
- 2) The Joint Working Group will discuss the concepts involved.
  - a) If agreement is reached, the Joint Working Group will ask a sub-committee to draft a proposed text to be submitted to the Department of Justice, drafting experts for informal comments.
  - b) If agreement is not reached:
    - the representatives will report to their respective superiors for guidance;
    - a meeting of some Indian leaders and ministers might be arranged;
    - the issue could be referred to the Joint Committee.
- 3) After an agreement is reached within the Joint Working Group, the National Indian Brotherhood Indian Act Committee will send the proposed texts to provincial and territorial organizations for purposes of consultation.
- 4) Through the National Indian Brotherhood consultative process, reactions from individuals, bands and regions will be sent to the National Indian Brotherhood Indian Act Committee for coordination. It is understood that comments received by government departments from Indian organizations, bands and individuals with respect to the Indian Act will be channeled into the consultative process at whatever level and stage seems most effective for full consultation.



- a) If there is consensus on a amendment, it will be considered by the Joint Working Group before it is sent to the Joint Committee.
  - b) If a consensus is not reached, the National Indian Brotherhood Indian Act Committee will proceed to further consultations.
- 5) Final propositions will be formulated by the Joint Working Group and submitted to the Joint Committee.
- 6) Propositions will be submitted to Cabinet and, if approved, the Department of Justice will be directed to prepare the draft legislation.
- 7) If Cabinet agrees, the draft legislation will be reviewed by the Joint Working Group.
- a) If the draft legislation is acceptable, it will be sent to Cabinet for final approval.
  - b) If it needs modification, it will be sent back to the Department of Justice with recommendations for change, re-submitted to the Joint Committee and sent to Cabinet for final approval.

DISCUSSION PAPER12 MAY 1977

Questions concerning the role of the Canadian Indian Rights Commission that we would like to raise with the Joint Sub-Committee as soon as possible:

1. Is the Canadian Indian Rights Commission expected to provide the secretarial function for the Joint Committee, Joint Sub-Committee, and Working Groups?
2. Is the Canadian Indian Rights Commission expected to provide the Chairmanship role for all Working Groups under the Joint Committee?
3. More generally, is the Canadian Indian Rights Commission expected to facilitate and assist all Joint Committee processes? (At the last Joint Committee meeting it was decided that the Canadian Indian Rights Commission under the direction of the Joint Committee was for the purpose of "facilitating the resolution of issues raised in the Joint Committee process.")
4. Does the Joint Committee approve of the Canadian Indian Rights Commission developing the research resource center from the Barber Commission (we are instituting a study leading to a detailed proposal for its development).
5. In facilitating the development of an inventory of claims, should the Canadian Indian Rights Commission confine its efforts to Ontario and the Prairies?
6. When will the appointments to the Canadian Indian Rights Commission be officially announced and how? In the longer term, what position should the Canadian Indian Rights Commission take in relation to inquiries from the media about its role and Joint Committee activities.

Brian Pratt/Justice Hartt - Commissioners



P.C. 1977-703



Certified to be a true copy of a Minute of a Meeting of the Committee  
of the Privy Council, approved by His Excellency the Governor  
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to provide to Ministers of the Crown and Indian  
leaders an opportunity to discuss problems of  
concern to the Government of Canada and the  
status Indians of Canada.

That a Joint Sub-Committee on Indian rights and  
claims, consisting of three members of the  
Privy Council and three representatives of the  
National Indian Brotherhood, has been established  
since the Government of Canada and the status  
Indians of Canada are concerned that agreement  
be reached on basic principles and processes for  
settling grievances about Indian rights and  
claims;

That it may be desirable to establish procedures  
for the purpose of better obtaining and  
preserving information concerning past events  
related to such grievances of status Indians;

That in obtaining such information it may be  
desirable to question elderly Indians with  
knowledge of the events giving rise to the said  
grievances in order that a record of such  
information may be preserved; and

That while both the Government of Canada and  
the National Indian Brotherhood recognize that  
such information may be useful in negotiating  
the settlement of grievances, the position of  
the Government of Canada is that such information  
may not be admissible in whole or in part in  
subsequent legal proceedings and the use of the  
procedures herein provided shall be without  
prejudice to the right of any party to such  
proceedings to contest the admissibility of such  
information.

- 2 -

That it is advisable now to appoint a Commissioner under the Inquiries Act who may, when a grievance as described above has been referred to him by a member of the Joint Sub-Committee, obtain information from elderly Indians with respect thereto.

Therefore, the Committee of the Privy Council, on the recommendation of the Prime Minister, advise that Dr. Lloyd Barber, President of the University of Saskatchewan in Regina, Saskatchewan, be appointed a Commissioner under Part I of the Inquiries Act to obtain information from elderly Indians with knowledge of the events giving rise to the said grievance where a member of the Joint Sub-Committee has referred such grievance to the Commissioner for the purpose of obtaining information and he has decided such action is appropriate.

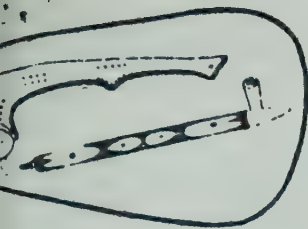
The Committee further advise that:

- (1) the Commissioner be authorized to exercise all the powers conferred on him by section 11 of the Inquiries Act;
- (2) the Commissioner be authorized to adopt such procedures and methods and to make such rules as he deems expedient for the proper conduct of his Inquiry and to sit at such times and places as he may decide;
- (3) the Commissioner be authorized subject to the direction of the Joint Committee to engage the services of such counsel, staff and clerks as he may require at rates of remuneration approved by the Treasury Board and to secure the assistance of such officers and employees of the Government of Canada as may be required for his activities;
- (4) the Commissioner file with the Secretariat of the Joint Committee his papers and records as soon as possible after the conclusion of each Inquiry and that the Joint Committee be empowered to furnish copies of such papers and records to such persons and on such terms as the Joint Committee sees fit;



- (5) The Commissioner shall also file with the Dominion Archivist one copy of his papers and records as soon as possible after the conclusion of each Inquiry.

*P. H. Pettiford*

**NATIONAL INDIAN BROTHERHOOD**

1ST FLOOR, BANKAL BUILDING, 102 BANK STREET, OTTAWA, ONTARIO K1P 5N4 (613) 238-0673  
TELEX 063-3202

MEMORANDUM

DATE: 13 August 1976

TO: Presidents, Provincial/Territorial Organizations  
Joint Indian Association Committee, Ontario

FROM: Clive Linklater  
Vice-President

RE: MANDATE OF JOINT COMMITTEE

---

Attached is a copy of a letter received today from the Honourable Judd Buchanan concerning the mandate of the Joint Cabinet/National Indian Brotherhood Committee, in reply to my letter of June 11, 1976, a copy of which is attached. For your further information, we are enclosing a copy of Mr. Buchanan's letter of March 30, 1976 to Premier Lougheed.

We regret that this letter did not arrive in time to be presented at the Executive Council Meeting this week.

*Clive Linklater*





Minister  
Indian and Northern Affairs

Ministre  
Affaires indiennes et du Nord

RECEIVED JUL 1 1976

Ottawa, Ontario K1A 0H4  
August 11, 1976

Mr. Clive Linklater,  
Vice-President,  
National Indian Brotherhood,  
First Floor,  
Bankal Building,  
102 Bank Street,  
Ottawa, Ontario. K1P 5N4

Dear Mr. Linklater:

As my Special Assistant promised in his acknowledgement, he brought to my attention your letter of June 11, referring to a statement I made in my letter of March 30 to the Provincial Premiers and Territorial Commissioners, concerning the mandate of the Joint Cabinet/National Indian Brotherhood Committee.

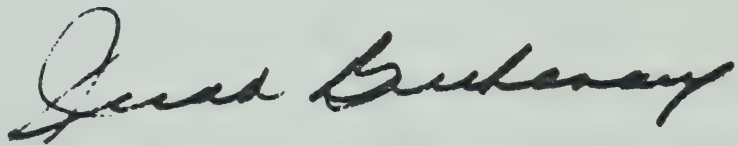
There appears to have been some misunderstanding about this. I am sure you will recall that, during the discussions of the Joint Working Group on Indian Rights and Claims, both the Government's representatives and the Indian leaders agreed on the urgency of resolving Indian claims, including those based on the non-fulfilment of treaty obligations and on the administration of Indian affairs. These last ones are, in fact, the claims which present the biggest problem in determining the principles and processes of settlement, and the Joint Committee therefore agreed that the first task of the Canadian Indian Rights Commission would be to classify the existing claims, so that these principles and processes could be established.

On the other hand, our policy of negotiation towards the settlement of comprehensive claims - those based on aboriginal interest - seems to be working reasonably well for both the Government and the Indian claimants. We therefore do not anticipate that it will be necessary for the Joint Committee to consider this issue at this time. That is what I meant by the statement in question. This is not to say, however, that the issue will never be considered by the Committee. The matter could be referred to it if, for example, the established process of negotiation breaks down.

Neither should my statement be interpreted to mean that the Government is trying to "do away (with), or extinguish, or liquidate, or terminate" the special status of Indian people. You may be assured that we have no intention of doing this. One of the bases of the Government's relationship with the Indian people is, in fact, the recognition that they have a "special place" within Canadian society. This will continue to be acknowledged. It is one of the main reasons why we are working with you to revise the Indian Act.

I have every confidence that, with our support, the joint Cabinet/NIB process will help to resolve the issues of concern to us both. I very much regret that my letter to the Premiers and Commissioners has caused this misunderstanding and concern about the Government's intentions, and I would like to reassure you once again that we are not "trying to follow and implement the 1969 White Paper termination policy".

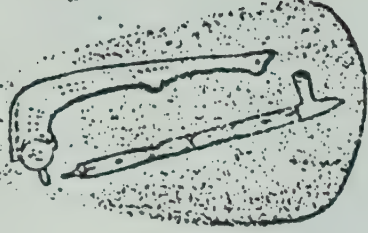
Yours sincerely,

A handwritten signature in dark ink, appearing to read "Judd Buchanan". The signature is fluid and cursive, with a large initial 'J' and a long, sweeping underline.

Judd Buchanan

A small, handwritten flourish or mark, possibly a checkmark or a stylized 'L', located below the signature.





# NATIONAL INDIAN BROTHERHOOD

1st FLR. BANKAL BUILDING 102 BANK ST., OTTAWA K1P 5N4 (613) 238-0673

June 11, 1976

Hon. Judd Buchanan,  
Minister,  
Department of Indian and  
Northern Affairs,  
400 Laurier Avenue West,  
Ottawa, Ontario.

Dear Honourable Minister:

We have obtained a copy of your letter to Premier Lougheed which mentions a similar letter is being sent to all Provincial Premiers.

We are greatly disturbed by the position you state in the last sentence of the third paragraph: "It is not expected that the Joint Committee will deal with those claims which are based on non-extinguishment of aboriginal title since the Government's establishment policy of negotiation towards agreed settlement is making progress in the areas concerned - British Columbia, the Yukon and Northwest Territories".

This position by you undermines all the efforts we have been making to negotiate the recognition, establishment, maintenance, and perpetuation of aboriginal rights and not the termination or extinguishment of rights as you indicate.

It is our view that Indian people are the first founding nations of people in Canada, and that we are charter members of the Canadian nation and as co-founders along with French and English that we have a special and unique status guaranteed by the British North America Act and other legislation. We wish to have our special place and status accepted and honoured in Canada, just as there is a special place for the French and English.

Hon. Judd Buchanan,  
Page Two,  
June 11, 1976.

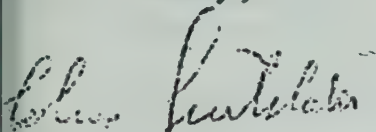
You can do away, or extinguish, or liquidate, or terminate OUR SPECIAL STATUS when you also eliminate the special status of the French and English.

Your statement is wrong, illegal, immoral, and contrary to history.

You are supposed to be protecting our interests but you, in fact, frequently work against those interests by continually trying to follow and implement the 1969 White Paper termination policy.

We fully expect the Joint Committee will deal with all aspects of the Aboriginal Rights of the Indian people and that these will be dealt with by mutual negotiation and that you will not make arbitrary and unilateral interpretations to the contrary.

Yours truly,



Clive Linklater,  
Vice-President.



OTTAWA, Ontario K1A 0H4

30 MAR 1976

The Honourable Peter Lougheed,  
Premier,  
Legislative Building,  
EDMONTON, Alberta.

My dear Premier:

You will be aware that for the past year or so my colleagues and I have been meeting with representatives of the National Indian Brotherhood. It has been agreed that a Joint Cabinet/National Indian Brotherhood Committee should be established to provide the opportunity for Government and Indian leaders to discuss major problems and issues that are of mutual concern. As a result of a meeting on December 12, 1975, Cabinet has now approved the process recommended by the Joint Committee to yield agreements between the Federal Government and representatives of the Indian people on certain policy matters.

The Joint NIB/Cabinet Committee is chaired by a Minister appointed by the Prime Minister, and is composed of the NIB Executive Council and the following Ministers: the President of the Treasury Board, the Minister of Justice, the Minister of Manpower and Immigration, the Solicitor General, the Secretary of State, the Minister of National Health and Welfare, the Minister of State for Urban Affairs and the Minister of Indian Affairs and Northern Development. Other Ministers will be invited to attend meetings of the Joint Committee when items on the agenda relate to the interest of their department.

As it is not expected that the Joint Committee could meet more than twice a year, a Joint Sub-Committee on Indian Rights and Claims has been formed, particularly because of the priority both the Government and Indian leaders place on the early resolution of Indian claims. It is envisaged that this smaller Committee of three Ministers and three Indians leaders would meet more frequently, as necessary, to address the problem of principles of claims and of settlement processes, and any other matters that the Joint Committee may wish to refer to it. It is not expected that the Joint Committee will deal with those claims which are based on non-extinguishment of aboriginal title since the Government's established policy of negotiation towards agreed settlement is making progress in the areas concerned - British Columbia, the Yukon and Northwest Territories.



The Joint Sub-Committee on Indian Rights and Claims will be supported by a Canadian Indian Rights Commission which will also be available to facilitate the resolution of other issues raised in the Joint Committee process under the direction of the Joint Committee. A commissioner will be appointed for each of the following three regions: the Prairies, Ontario, Quebec and the Maritimes. The first group of commissioners will be appointed for three, four and five years, with subsequent appointments or re-appointments to be for five years.

To provide additional assistance to the Joint Committee, if required, a panel of inquirers will be established consisting of a list of names of well-known persons who could be asked to conduct an inquiry at the request of the Joint Committee.

Also at the December meeting of the Joint Committee, agreement was reached on a consultation process to be carried out by the National Indian Brotherhood among Indian bands about revisions to the Indian Act. It is anticipated that this consultation process will take about two years to enable all bands to have the opportunity to express their views about proposed amendments to the Act. You will be kept informed about these proposals as they arise in the Joint Committee.

The Joint Committee process is a new initiative in a positive direction, which I am confident can lead to an improved relationship between the Government and Indian people. Because of your own interest in such improvements, I know you will be interested in these recent developments which inevitably affect provincial governments and the Canadian people at large. For this reason, I am sending a similar letter to all provincial premiers, as well as the Commissioners of the Yukon and Northwest Territories. If you wish to have any further information about this process, I shall be very pleased to hear from you.

Yours sincerely,

ORIGINAL SIGNED BY  
HON. Judd Buchanan  
ORIGINAL SIGNÉ PAR

Judd Buchanan.





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